

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)****Docket Number (Optional)**
ON-32721A (167-174)First named inventor: Peter J. HoughtonApplication No.: 10/530,618Art Unit: 1612Filed: February 23, 2006Examiner: Benjamin J. PakardTitle: USE OF IMATINIB (GLIVEC STI-571) TO INHIBIT BREAST CANCER RESISTANCE PROTEIN...

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional

1. Petition Fee

- ☐ Small entity-fee \$ _____ (37 CFR 1.17(m)). Application claims small entity status. See 37 CFR 1.27.
- ☒ Other than small entity-fee \$ 1,620.00 (37 CFR 1.17(m))

2. Reply and/or fee

- A. The reply and/or fee to the above-noted Office action in
the form of _____ (identify type of reply):

- ☐ has been filed previously on _____.
- ☒ is enclosed herewith.

- B. The issue fee and publication fee (if applicable) of \$ _____.

- ☐ has been paid previously on _____.
- ☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Ann R. Pokalsky
Signature

Ann R. Pokalsky

Type or Printed name

Dilworth & Barrese, LLP

Address

1000 Woodbury Road, Suite 405, Woodbury, NY 11797

Address

May 11, 2010

Date

34,697

Registration Number, If applicable

516-228-8484

Telephone Number

Enclosures:

- ☒ Fee Payment
- ☒ Reply
- ☐ Terminal Disclaimer Form
- ☒ Additional sheets containing statements establishing unintentional delay
- ☐ Other: _____

I hereby certify that this correspondence is being transmitted to the U.S. Patent and Trademark Office via the Office's electronic filing system on May 11, 2010.

Ann R. Pokalsky
(Printed Name)

Signature:

Ann R. Pokalsky

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF

Art Unit: 4173

HOUGHTON ET AL.

Examiner: Benjamin J. Packard

APPLICATION NO: 10/530,618

FILED: FEBRUARY 23, 2006

FOR: USE OF IMATINIB (GLIVEC, STI-571) TO INHIBIT BREAST
CANCER RESISTANCE PROTEIN (BCRP)-MEDIATED
RESISTANCE TO THERAPEUTIC AGENTS

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

**ADDITIONAL SHEETS CONTAINING STATEMENTS ESTABLISHING
UNINTENTIONAL DELAY FOR REVIVAL OF AN APPLICATION FOR
PATENT ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b)**

Sir:

In early March, 2009, the undersigned was asked to assume responsibility for prosecution of a number of patent applications including the above-identified application. On March 10, 2009, the undersigned attorney received the original files for a number of applications, including the above-identified application (**Exhibit A**). The undersigned received the original file of the above-identified application with a change of correspondence address contained within the file. This change of correspondence address is dated March 5, 2009 (**Exhibit B**). Since the undersigned received the file for the above-identified application on March 10, 2009, which date is subsequent to March 5, 2009, the undersigned believed that the change of correspondence address was duly submitted to the USPTO prior to transfer of the original file to the undersigned.

Certificate of EFS-Web Transmission

I hereby certify that this correspondence is being transmitted to the U.S. Patent and Trademark Office via the Office's electronic filing system on May 11, 2010.

Ann R. Pokalsky
(Printed Name)

Signature:

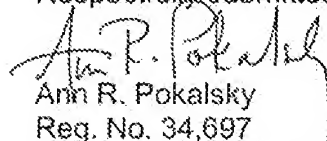


On April 10, 2009, the undersigned attorney filed an RCE in the above-identified application from the law firm of Dilworth & Barrese, LLP, believing that the change of correspondence address was on file with the USPTO. On April 13, 2009, the undersigned received the date-stamped return postcard acknowledging receipt of the RCE from the USPTO. On July 2, 2009, the USPTO mailed an office action to the correspondence address on file, *to wit*, Novartis Corporate Intellectual Property, One Health Plaza 104/3, East Hanover, NY 07936-1080. On January 27, 2010, the USPTO mailed a Notice of Abandonment to this same correspondence address.

The undersigned verily believed that a change of correspondence address had been submitted to the USPTO in this application. Since the undersigned did not receive the July 2, 2009, office action, the undersigned did not know any response was due. Also, since the undersigned did not receive the Notice of Abandonment, the undersigned did not even know the application was abandoned until the attorney who prepared the change of correspondence address informed the undersigned of the same. The undersigned has now examined the image file wrapper as it appears on PAIR for the above-identified application and cannot find a copy of the change of correspondence address (**Exhibit B**) entered.

In summary, the undersigned believed a change of correspondence address had been duly submitted to the USPTO in the above-identified application, *as had been done in the other applications (Exhibit A) transferred to the undersigned on the same day, March 10, 2009*. Based on the foregoing, the undersigned hereby states that the entire delay in filing the required reply from the due date for the required reply until the filing of this petition under 37 C.F.R. §1.137(b), was unintentional.

Respectfully submitted,


Ann R. Pokalsky
Reg. No. 34,697
Attorney for Applicants

DILWORTH & BARRESE
1000 Woodbury Road, Suite 405
Woodbury, New York 11797
(516) 228-8484
ARP/ml

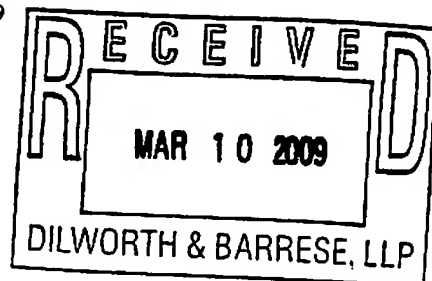
EXHIBIT A



Novartis Pharmaceuticals Corporation
One Health Plaza
East Hanover, NJ 07936-1080
USA
Telephone: +1 862 7782614
Fax: +1 973 7818064

March 6, 2009

Ann R. Pokalsky, Esq.
Dilworth & Barrese, LLP
333 Earle Ovington Blvd.
Uniondale, NY 11553



Dear Ann,

Attached please our case files for the following patent applications:

Novartis Case No.	US Application No.
	10/
	12/
	10/
	10/
3272	10/530,618
	10/
	10/
	10/
	10/
	11/
	11/
	12/
	12/
	12/
	12/
	12/
	12/
	12/

Kindly confirm receipt.

Yours truly

Novartis Pharmaceuticals Corporation

EXHIBIT B

CHANGE OF CORRESPONDENCE ADDRESS Application

Address to:
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	10/530,618
Filing Date	02-23-2006
First Named Inventor	Peter J. Houghton
Art Unit	1612
Examiner Name	Benjamin J. Packard
Attorney Docket Number	ONI/4-32721A

Please change the Correspondence Address for the above-identified patent application to:



The address associated with
Customer Number:

28249

OR



Firm or
Individual Name

Address

City

State

Zip

Country

Telephone

Email

This form cannot be used to change the data associated with a Customer Number. To change the data associated with an existing Customer Number use "Request for Customer Number Data Change" (PTO/SB/124).

I am the:



Applicant/Inventor



Assignee of record of the entire interest.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).



Attorney or agent of record. Registration Number 33,543



Registered practitioner named in the application transmittal letter in an application without an executed oath or declaration. See 37 CFR 1.33(a)(1). Registration Number _____

Signature

George R. Dohmann

Typed or Printed
Name

George R. Dohmann

Date: March 5, 2009

Telephone

862-778-7824

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.



Total of _____ forms are submitted.

This collection of information is required by 37 CFR 1.33. This information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.